GEORGIA SPECULATION

UNVEILED;

IN TWO NUMBERS.

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This Pamphlet is an actual, though not a literal answer to the " State of Facts, *" published by the Georgia Companies. It contains the outlines of the present state of the Georgia business, and a brief sketch of the arguments on both sides, with such Commentaries as the compass of the work would allow. The general tenor of it, especially that part which treats of the Chancery powers of our Courts, will be found applicable to the cases of all, who have suffered by any kind of Land speculation.*

STATE OF FACTS,

RELATING TO THE GEORGIA LANDS.

"UNDER the term of GEORGIA WESTERN TERRITORY is included all that part of the "State of Georgia, which lies weſt of the head waters "of thoſe rivers, which fall into the Atlantic ocean. "Theſe lands are principally inhabited by three na- "tions of Indians, the Chactaws, the Chickaſaws, and "the Creeks,—of which nations the following is a "ſummary character.

"THE Chactaws, or flat-heads, are a powerful, har- "dy, ſubtle and intrepid race of Indians, who inhabit "a very fine and extenſive tract of hilly country, with "large and fertile plains intervening between the Al- "abama and Miſſiſippi rivers. They have about 40 "towns and villages, and 4000 fighting men.—They "have large plantations or country farms, where they "employ much of their time in agricultural improve- "ments, after the manner of white people.

"THE Chickaſaws are a nation of Indians, who in- "habit the country on the eaſt ſide of the Miſſiſippi, "on the head branches of the Tombeckbe, Mobille "and Yazoo rivers. Their country is an extenſive "plain, tolerably well watered from ſprings, and of a "pretty good ſoil. They have 7 towns, and their "number of fighting men is eſtimated at 575.

"THE Creeks inhabit the middle part of Georgia. "They eminently deſerve the encomium of all nations "for their wiſdom and virtue in expelling the uſe of

" *ſpiritous liquors.* The firſt and moſt cogent article " in all their treaties with the white people, is, that " there ſhall not be any kind of ſpiritous liquors ſold " or brought into their towns.—Inſtances have fre- " quently occurred, on the diſcovery of attempts to " run kegs of ſpirits into the country, of the Indians " ſtriking with their tomahawks thoſe who attempted " it, and giving the liquor to the ſand, not taſting of " it themſelves. It is difficult to account for their ex- " cellent policy in civil government: it cannot derive " its efficacy from coercive laws; for they have no " ſuch artificial ſyſtem. They have 55 towns, beſide " many villages, and their fighting men are about " 5800.—They are a well-made, expert, hardy, ſaga- " cious, politic people; extremely jealous of their " rights, and *averſe to parting with their lands.* They " have abundance of tame cattle and ſwine, turkies, " ducks and other poultry. They cultivate tobacco, " rice, Indian corn, potatoes, beans, peas, cabbage, me- " lons, and have a plenty of peaches, plumbs, grapes, " ſtrawberries and other fruits. They are faithful " friends, but inveterate enemies; hoſpitable to ſtran- " gers, and honeſt and fair in their dealings. *No na-* " *tion has a more contemptible opinion of the white men's* " *faith in general, than theſe people: yet they place great* " *confidence in the United States, and wiſh to agree with* " *them upon a permanent boundary, over which the ſou-* " *thern States ſhall not treſpaſs.* The country which " they claim, is bounded northward by about the 34th " degree of latitude, and extends from the Tombeckbe " or Mobille river to the Atlantic ocean (though they " have ceded a part of this tract on the ſea coaſt, by " different treaties, to the ſtate of Georgia.)

" Of this weſtern territory, thus inhabited, the ſtate " of Georgia by act of their legiſlature, paſſed January " 7th, 1795, ſold about twenty-two millions of acres, " to four different companies—viz.

" ONE tract to James Gunn, Matthew M'Alliſter " and George Walker, and their aſſociates, called, " *The Georgia Company.*

" ONE tract to Nicholas Long, Thomas Glaſcock, " Ambroſe Gordon and Thomas Cummings, and their " aſſociates, called, *The Georgia Miſſiſippi Company.*

" ONE tract to John B. Scott, John C. Nightingale " and Wade Hampton, called, *The Upper Miſſiſippi* " *Company.*

" ONE tract to Zechariah Coxe, Mathias Maher, " and their aſſociates, called, *The Teneſſee Company.*

" HALF a million of dollars was the purchaſe mo- " ney :—this, or the greateſt part of it, was ſecured " by mortgages, which have been ſince cancelled.— " But the ſtate of Georgia now reclaims theſe tracts " of land, alledging that the act authorizing the ſale, " is contrary to the 4th article of the conſtitution of " the United States ; repugnant to the 16th and 17th " ſections of the 1ſt article of the conſtitution of Geor- " gia ; and was moreover obtained by means of fraud, " atrocious ſpeculation, corruption and colluſion.— " Hence, by an act paſſed February 13th, 1796, the " aforeſaid act of January 7th, 1795, was declared " null and void, and the grants, rights and claims de- " duced from it, annulled and rendered void and of " no effect."

THUS far my ſtatement is probably correct, being moſtly taken from Doctor Morſe's American Gazetteer.

BETWEEN the time of paſſing the granting act in January, 1795, and of paſſing the reſcinding act in February, 1796, a great portion of theſe lands were alienated by the Companies, and became the property of purchaſers in the middle and eaſtern ſtates. Theſe ſales were effected under the influence of a certain pamphlet, entitled, " *State of facts, ſhewing the right* " *of certain companies to the lands, lately purchaſed by*

"*them from the ſtate of Georgia*," and under the influence of certain other means, which will be noticed in the courſe of theſe numbers.

To ſave the inconvenience of frequent references and quotations in the following pages, it may be well to inform the reader, that relying on the ſtatement of facts, publiſhed by the Georgia companies, I verily believed (till after the reſcinding act) that the *fee* of the lands ſold to the companies and by them to us, had been extinguiſhed by the ſtate of Georgia; but that the Indians had a right of hunting and fiſhing, which would in time be abdicated or eaſily purchaſed; as ſuch a kind of right had formerly exiſted in this colony, and had been virtually recognized in the ſeveral treaties with different tribes. But after the reſcinding act, it appeared that the right of the ſtate of Georgia to the *fee*, was juſt ſuch a right as the ſtate of North Carolina had ſet up to Indian lands; but which had been negatived unanimouſly by a committee of Congreſs, conſiſting of a member from each of the ſtates. It alſo appeared that this ſetting up of a *fee* was pointedly oppoſed to the uniform policy of the United States, to the uniform declarations of Congreſs, and to the treaty with the Creek nation, concluded Auguſt 7th, 1790.

As the *fee* which was the ſubſtance of all theſe ſales had failed entirely and did not exiſt, and as much money had been paid, and many notes been given, it became important to enquire whether the right of preemption was worth any thing.—On enquiry it appeared that the ſtate of Georgia had a very *queſtionable right* to purchaſe lands (of three Indian tribes, who had no diſpoſition to ſell them) whenever Congreſs, (who denied the exiſtence of this right) ſhould grant them liberty to hold a treaty. The Maſſachuſetts and Connecticut rights of preemption were undiſputed, and they contemplated lands, which the policy of the U-

nited States would juſtify them in purchaſing, and which the right owners were diſpoſed to ſell; but the numbers, characters and ſituation of theſe three nations, combined with the policy of the United States, preſented a very powerful contraſt in theſe Georgia lands. Impreſſed with theſe ideas, it occurred to me, that if the Creek nation had ſold to Long, Glaſcock and others, their right of preemption to the ſtate of Georgia, or the ſtate of Connecticut, I ſhould as readily have been an aſſignee of the claim, as with a knowledge of facts, have been a purchaſer under the Georgia companies.

But the reſcinding act led up ſome ideas about fraud, atrocious ſpeculation, corruption and colluſion, practiſed on the legiſlature, which led me to conſider whether ſome ſuch practices had not been adopted at the northward as well as the ſouthward; and on enquiry, it appeared that ſome of the agents of the Georgia companies had conducted honorably—and have not any intention of profits in this unfortunate and deluſive buſineſs:—but that others had eminently ſuſtained the characters of fraud and deceit in ſelling, which they had acquired in purchaſing.

From theſe premiſes it appeared to me that men who take money or notes for that which proves to be nothing, eſpecially under the above circumſtances, ought to refund.—And this ſentiment, if true, will operate in favor of all, thro' whoſe hands theſe lands have paſſed, back to the members of the firſt companies; and the reſcinding act has recognized this ſentiment, by providing that the firſt companies may receive back the money paid, and no one can oppoſe the operation of it, but thoſe who are watching to make fortunes out of the nothingneſs of this Georgia buſineſs; and this number I hope (for the honor of humanity) is very ſmall.

Repeated diſcloſure of theſe opinions has led me

to hear much logic and law-learning upon this ſubject —much cenſure upon the ſtate of Georgia—many remarks upon what the legiſlature might, could, or ought to have done.—But though my attention has been often ſuſpended by the eloquence of great and learned men, on the ſubject; yet no one has convinced me that the *right of the ſtate of Georgia to buy land* of the Creeks, Chickaſaws and Chactaws was ever worth a farthing.—No one has convinced me that the ſtate ever had ſuch right.—No one has proved that the fee of lands, and a right to buy the fee, are the ſame thing. Amidſt the variety of opinions and the indefinite ſtate of this buſineſs, I have ventured to throw out the following diſcuſſion, as the reſult of my own conviction; and have ſubſcribed it for the expreſs purpoſe of avoiding that confuſion, which often reſults from anonymous publications.

Georgia Speculation Unveiled.

No. I.

LET *the buyer look out*, is a maxim ſuppoſed applicable to all contracts where land is named;—but to the northern ſales of Georgia land it can have no application; for theſe are not ſales of *land*, as facts now ſhew; and by the ſellers were not intended to be ſales of *land*, but a mere floating imaginary right to buy land—which partakes no more of reality than a right to buy goods or horſes. The right to buy Indian land is at beſt no more than a chattel, and is a perfect non-deſcript, unknown to all the writers upon real eſtate. It originated in avarice and power, and never, *in this inſtance*, has gained any other exiſtence than on paper.

THE State of Georgia claimed a right in fee to certain lands,—which lands were in fact ſubject to an abſolute fee-ſimple, in the right owners,—and ſaid ſtate acknowledged this fee, ſubject to a particular kind of uſufruct—which uſufruct was the abſolute undiſputed dominion and poſſeſſion of theſe owners, with an ancient, inherent and interminable right of doing with it as they pleaſed, without any hindrance or moleſtation from this claimant:—and this fee, dominion and poſſeſſion of the right owners, guaranteed by the United States, and ſecured by ſevere laws from all fraud and force on the part of the preemptors:—and to crown all, this ſame preemption claimed over the heads of this ſame ſtate of Georgia by the United States, who have an uncontrolable right to decide by judicial offi-

cers of their own creation on the right of preemption:—and again, this uſurped preemption of the ſtate of Georgia, ſecured from invaſion by their own conſtitution and poſitive laws, and guarded againſt fraud and deceit by all thoſe general maxims which obtain and are recognized in all ſovereign ſtates.

THE mind of man can proceed but one ſtep further, and yet retain one idea of lands or claims; and this ſtep is preſented in the kind of right, which the Georgia companies claim to theſe lands. By the force of fraud and corruption (as I ſhall ſhew hereafter) they have broken through all the barriers, which ſo perfectly ſecured the fee and poſſeſſion of the right owners—and after obtaining the ſemblance of a granting act, came forward, and by a printed pamphlet, entitled, "*State of Facts*," &c. declared to all the world, that they were the true and lawful aſſignees of the *fee* of thoſe lands, and to all the uſes of it, except a particular kind of uſufruct, called a right of hunting and fiſhing of the Indians. Not one of the attributes of their claim was of neceſſity a matter of record; and the land could not from its ſituation promiſe to any purchaſer under them an office of record, where he might reſort for evidence of title;—therefore every thing inducing a ſale muſt be from the ſeller, and in all ſuch caſes, *let the ſeller look out, that he deceive not the buyer.* 'Tis a maxim of common ſenſe and reaſon, that whatever inducements the ſeller improves to draw money from the buyer he ſhall make true, or ſuffer the inconvenience of their proving falſe; for if he has taken money for his own falſhoods, he ought to refund it, whenever equity and good conſcience demand it.—And if this rule is not in the books, it ought to be placed there, by the ſide of *caveat emptor.* Both parties are to look out; all men are to look out; *but courts are eſpecially to look out, and ſee that men get no gain by cheating their neighbours;*—and if in every caſe they

cannot find a precedent for doing right, let them, as Lord Hardwicke did, make a precedent.

The frauds practiſed in the negociation and ſales of theſe Georgia lands, have been as numerous and complicated as the heart of man could conceive; and the property now reſting for deciſion of the courts in conſequence of them, is to an immenſe amount. The reſcinding act of the ſtate of Georgia has brought all theſe matters to a criſis, and one deciſion of the ſupreme court of the United States, may probably influence the deciſions of lower courts. I ſhall therefore proceed to diſcuſs,—1ſt. the validity of this reſcinding act—2d. the impoſſibility of affecting it by any court or power in the United States—and 3d. the conſequence upon all the notes depending on the ſales under the granting act.

1. The validity of the reſcinding act depends on the power which paſſed it.—This is the ſovereign independent ſtate of Georgia, having a right to make or repeal their own laws at pleaſure, and this right wholly uncontrolable. When individuals deal with each other, there are courts to compel compliance with their contracts:—how far the policy of the United States will ſuſtain a citizen in a diſpute againſt a ſtate, for monies due on ſtate notes, or otherwiſe acknowledged; and whether a marſhall may ſafely commit to priſon the governor, treaſurer or ſecretary of the ſtate for a ſtate debt, is beſide my preſent object. This was a grant ſaid to be ſtanding on records, whereof the legiſlature had the control. Theſe records do not now exiſt;—they are burnt, and the reaſons are aſſigned on new records for deſtroying the ſame. I aſk, what remedy have the Georgia companies? They cannot bring a writ of ejectment; for none but the Indians are in poſſeſſion.—They cannot ſue for the lands, but in the ſtate where the lands lie;—and whatever court tries the cauſe, muſt try it by the exiſting laws of the ſtate

of Georgia; and no law exiſts in favor of the companies.—Copies of record will not anſwer: if they would, a ſecretary might certify what on trial would eject all the people of a ſtate from every foot of their land. The exiſting laws muſt be ſuch as are recognized by the people, legally repreſented; and the legal repreſentatives muſt have a right to declare their ſenſe of the laws.

In various caſes a legiſlature may declare a pretended act void—as whenever 'tis contrary to conſtitution—as where a leſs number was preſent at paſſing it, than is required to form a houſe—or where the ſpeaker or preſident of the council was bribed to declare that a vote, which was not a vote; or where the voters in favor of an act were intereſted in the paſſing of it; or where it was paſſed by members not having taken the neceſſary oaths; and in all caſes, where fraud and deceit are combined between thoſe who compoſe the legiſlature, and thoſe who are to be benefited by any particular act. Take this power from a legiſlature, and where is the ſovereignty of the ſtate?—Such a powerleſs ſtate would be left open to the ravages of all the unprincipled men in the univerſe, and their property and rights might be bartered for bribes. All contracts with ſovereign ſtates muſt be made in confidence that power and integrity will be united; and he who approaches a ſovereign people for grants, muſt do it with clean hands. The maxims of honor and honeſty, which form a part of the policy of all enlightened ſovereignties, are a ſufficient guarantee to thoſe who deal uprightly with governments. Let thoſe who maintain a different doctrine, go proſecute the national aſſembly of France to make good their aſſignats, or the United States for their continental bills.—Where is the power to try the cauſe?—Or let ſuch point out the power, which can control the ſtate of Georgia in the enaction of their laws, or the management of their

records. Can the congreſs of the United States do it? Certainly no:—this would deſtroy the confederation. Can the court of the United States? Clearly they cannot judge what laws ought to exiſt.

ALL the arguments of the oppoſers to the reſcinding act would be more plauſible, if they had in view real eſtate in fee and poſſeſſion; and had honeſtly paid a fair conſideration for it.—In ſuch a caſe the law might ſtretch its force to obtain them juſtice; but this being an unſubſtantial thing the law cannot reach it, and could not do it, even if the queſtion was between two individuals. As in caſe A owns a large farm, divided into 16 lots, and has a right to keep it and uſe it as long as he lives, and then to leave it to his heirs forever, B, C, D, and ſo on, to the number of 16; knowing that competition of buyers raiſes the value of farms, and diſpoſed for their own advantage to deprive A of this benefit, agree among them that B ſhall alone bid on lot No. 1, C on No. 2, ſo that A may ſell to no other.—B ſells his right of preemption in lot No. 1 to S for 10 dollars—S ſells it to T for 100—T to U for 1000. Now B declares that he was cheated out of it,—that he never delivered the deed, &c. and that he holds himſelf a bidder for the land as much as ever. A is ſtill in poſſeſſion, and likely ſo to continue. Can U ſuſtain an action againſt B? All men will agree that B has done U no damage, and U has gained nothing by his money; but U has given his notes to T, and they are put in ſuit.—He petitions for relief, ſtating that T pretended that he owned the fee, and that it was the moſt valuable part of the farm; and that this was his inducement to give 1000 dollars; that there were no records to reſort to, and that he relied ſolely on T's word. T owns it all—and that in fact *he did not own the land, but had a right to buy it.* Will a court doubt what equity and good conſcience demand in this caſe?—To apply this, the land in queſtion is merely a

right to buy land, which perhaps may never be for ſale; which conſideration alone, ſeparate from the doctrine of ſtate ſovereignty, is an invincible intrenchment for the ſtate of Georgia, and the northern purchaſers.

Some ſay they may reſtore the records. Am I to lie out of my money for an age, waiting to ſee whether the ſovereign ſtate of Georgia will pity me for having been cheated by thoſe who cheated her? But ſay others, ſhe may grant it to another company, and then we may try the title. Perhaps ages may paſs before this ſovereign ſtate will grant it again, and then neither of us can try the title to the lands, 'till the Indian title is extinguiſhed.—That can't be done, but by liberty to hold a treaty; and this liberty cannot be granted to thoſe whom the ſtate of Georgia denies as her grantees, without violating her ſovereignty; unleſs by a ſuit at law the title ſhould be determined;—and this title can never be made a law queſtion, 'till the fee and poſſeſſion of the right owners is extinguiſhed. Suppoſe a ſuit brought for the preemption, what marſhall could levy the execution?—on what could he levy it? Whatever might be the judgment, it would be an idle one, founded on nothing, and no one could carry it into effect.

Others ſay we have fairly bought it, *and will have it*—and under this grant, reſcinded and burnt, negociations are now making on the Miſſiſippi lands. Vain new editions of Miſſiſippi dreams! Such managers might as well have uſed force without a grant; but when force is uſed, the reign of law and argument has ceaſed.

Those who have not cheated nor been cheated in this buſineſs, feel diſpaſſionate; they utter no deprecations againſt Jackſon and his party, but calmly view the ſtate of Georgia, exerciſing a ſovereign right in a ſovereign and righteous manner. A great claſs of

people comfort themſelves with a hope of trying the queſtion in the federal court, in ſome one of the northern ſtates, whether the reſcinding act is valid. As well might you try it before a juſtice's court: the judgment of both would be equally powerleſs. Can you put at iſſue in a diſtant ſtate the ſovereignty of Georgia? Can you obtain judgment that her legiſlature has been diſtracted; and what will you do with your execution? All the propoſitions which have been made to render the reſcinding act of no validity are equally unpromiſing, as to the preſent claimants under the granting act.—All common-law principles attempted to be applied to the ſubject are loſt; and the greateſt lawyer is as the weakeſt peaſant, when attempting to diſcuſs it. As preemptive claims were never founded on law or right, they are not a ſubject of law-books; as they are peculiar to this country, they are not underſtood elſewhere; and as no caſes ſuch as that of the reſcinding act have ever before occurred, we are not to wonder, that men ſhould be confounded at the operation of it.

But take the nature of their claims, as it is explained—the rule of equity, which applies to the transfer of them—the ſovereignty of the ſtate—the reſcinding of the act—the impracticability of trying the legality or equity of it, and it will fairly appear that *the preſent purchaſers have nothing, and have no proſpect of any thing for their money or their notes.*

2d. These things being true, what is the conſequence upon the notes, depending on the ſales under the granting act? My anſwer is, that they ought not to be paid. What forms the courts may think proper to adopt in rendering them void is not material. If it be once aſcertained that they ought to be void, courts will adopt or invent means proper for the end.

I begin then by taking the three following poſitions—1ſt. *That where a man has been deceived in a contract, and in conſequence has deceived another, he ſhall*

gain nothing by the transfer: if he escape without loss, it is the most he can desire.—2d. *If he knew of the deceit practised on him previous to his selling, and yet made use of the deceit to induce a bargain, the least he can expect is the total loss of the price agreed on.*—3d. *If he were a partaker in the original deceit, he ought to lose the whole and be severely punished.* All the sellers of Georgia land have been within these classes; for there was deceit at the bottom;—and the many insidious arts practised by many of the sellers, give good reason to believe that they were the *original* deceivers.

The whole transaction has all the air and appearance of a deep-laid and thoroughly executed plan of swindling.—The management of it proves that in the plan some southern people were to be gainers, and a great number of the northern people to be losers. I venture to predict, that some southern people will be bankrupts, and that the northern people will, after much vexation and delay, escape from loss. The rescinding act has struck a deadly blow at these first deceivers, and has arrested their career at the very moment when they were about to be loaded with wealth.

In this precise stage of the business, the granting act being rescinded—the preemption resumed—no fee of lands in existence—the sellers greedy for payment, crouding for it at the bar of our courts—hosts of lawyers in their pay, on great wages—notes all in suit, and petitions for relief pending:—What can our courts do? I answer, they are courts of law and equity, and are instituted for the purpose of doing right between man and man; and this they are to do as far as may be, according to the principles and practice of law and equity in the books. I think it has been shewn abundantly, that this case could not have been contemplated in the books;—it will follow then that this must form the basis of a precedent, and must be determined on its own merits.

THE firſt natural enquiry of the courts therefore, is—the character of the parties and their reſpective claims on the juſtice or equity of the law.—Not their private character; but that which they wear in relation to this new and unprecedented cauſe. The plaintiffs in theſe cauſes when aſked this queſtion may ſafely anſwer—"We are of thoſe, who contrived and colluded with ſeveral members of the legiſlature of the ſtate of Georgia, to procure an act, violating their conſtitution and alienating the property of the people.—By promiſes of gain, by bribes, we led them to violate their oaths and thoſe principles of honor and fidelity to their conſtituents, which all laws command them to maintain.—We ſucceeded in our plan—procured a grant—we publiſhed not ſingle pages, but pamphlets of lies—circulated them with our own hands—ſupported them by our own affirmations—ſwore to them on our honor.—We thus enliſted men of integrity on our ſide—cauſed them to betray their neighbours—opened ſubſcriptions for the land—headed with names of men, whoſe permiſſion had never been obtained.—We entrapped the unwary—committed heads of families for more than they were worth—pretended that we were ſelling under the influence of embarraſſment, for leſs than half what we might get, had we time to ſeek purchaſers.—We haſtened our bargains, leſt the reſcinding act ſhould overtake us;—and to crown all, after we knew the act was paſſed, we employed emiſſaries from Philadelphia to ride expreſs to complete bargains already projected, and to open contracts at all hazards;—and when all this was known, we curſed Jackſon and his party, in the language of fallen Lucifer to Michael.—We then ſecretly employed lawyers to write treatiſes againſt the reſcinding act, as their *voluntaries*, upon ſuch an unprincipled meaſure.—We circulated theſe to convince the dupes of our management, that Jackſon was an enemy to fair deal-

ing, and that the ſovereign ſtate of Georgia was a miſerable ſubjected province, whoſe laws wanted no other confutation than our contempt:—but when conviction begun to operate on the public mind, and even on our own, that this reſcinding act was ſerious and concluſive,—we employed hoſts of lawyers, with enormous fees, to abet our cauſe;—and by their combined influence, and the aid of law-books, we hope to bear all before us. Tho' we knew that the men whom we had deceived, retained only the miſerable ſhadows of land, which we pretended to ſell them, and were willing to give up their deeds, and to ſuffer loſs for their deluſion—we haughtily refuſed; and to ſhew our power, loaded them with attachments—put them to all manner of expenſe, and are determined that wide-ſpread ruin and deſolation ſhall follow thoſe who have dealt with us,—for which object we approach the altar of juſtice, and pray the aid of this honorable court to carry our purpoſes into effect.—And if the court doubt this our character, we refer them to the reſcinding act, containing 64 depoſitions in proof of it—to our pamphlets, and to our uniform conduct." To which character, well may the court ſay—Hail Lucifer, ſon of the morning!

THE other characters are plainly thoſe, who have been the ſubjects of all this deceit, impoſture, falſhood and vexation; and who come before the court to obtain relief againſt a ſyſtem of fraud and ſwindling—perhaps more complicated in its machinery, and varied in its operations, than any which has diſgraced the character of man in this or any other age.

I HAVE put language into the mouths of the plaintiffs, which they would not be apt to uſe—*for 'tis the language of truth*,—not fancied, but thorougly proveable; and with all the varniſhes and apologies, which this age of reaſon, refinement and revolutions, can put upon their conduct, the reſult of a fair inveſtigation

will produce juſt ſuch a concluſion.—To overdraw the character, or diſtort the cauſe in this ſtage of it, would be a prejudice to the end which is aimed at. I have therefore preſented them as they muſt appear, when record, evidence and ſubſtantial teſtimony ſhall be combined in the proof;—which will infallibly take place before the concluſion of this buſineſs. Let not thoſe judge chimerical, this mode of introducing characters, who have obſerved in courts of chancery every thing brought forward, which forms the characters of the parties, in direct relation to the cauſe in queſtion.—This is always admitted, and no more is contended.

The ſecond queſtion to the plaintiffs, is—"What claim have you upon the juſtice or equity of this court?"—The anſwer muſt be—"We have notes for our Georgia deeds, and we pray the power of the court to enforce the collection of them." The queſtion to the defendants, is—"Did you ſign and deliver thoſe notes?—are they your act and deed?"—The anſwer is—"We did ſign and deliver the notes; but they are not our act and deed?" At this inſtant books, authorities, precedents all croud in favor of the plaintiffs: and a court poſſeſſed of full power to make a precedent of right, is to be ſtormed out of all deliberation. But is every note, ſigned and delivered unconditionally, the act and deed of the ſigner?—ſuppoſe he is unable to read, and the note is read to him as for £.100, and it really is for £.1000, and can be ſo proved, and that the obligee read it to him wrong,—is that his act and deed?—Again, ſuppoſe that he reads a note himſelf, and by ſhuffling of the obligee, another is placed for him to ſign, and he deliver the laſt,—is that his act and deed?—Or if he ſigned and delivered it with a piſtol at his breaſt:—Are ſuch notes the act and deed of thoſe who deliver them?—Every one will agree no. Then there are caſes where a note may be

ſigned and delivered unconditionally, and yet not be the act and deed of the ſigners.—Pray is there any difference between ſlight of hand and ſlight of head? Or ſhall he who reads a note wrong, and he who tells 100 lies to obtain it, ſtand on a different footing?—Reaſon and common ſenſe ſay no. The books may be very nice about the mode in which the injured ſigner ſhall get rid of the payment; but they will never ſupport a malefactor in recovering notes under theſe circumſtances.

COURTS will not decide againſt notes upon mere ſuggeſtion of fraud: It muſt be made evident. In theſe caſes, various are the kinds and degrees of evidence; but when once it can be ſhewn, that the plaintiff is one of the horde, or allied to thoſe men who overrun theſe northern ſtates with their Georgia ſcrip or deeds, and that the conſideration of the notes has wholly failed—the preſumption becomes violent, that theſe frauds have attended the ſales; and that ſmall portion of light and evidence, which almoſt every individual purchaſer can produce, will be ſufficient to bring every caſe within the general principles and deciſions, which muſt obtain in all the Georgia cauſes.

OUR courts and juries, if driven to peremptory law deciſions, will decide that theſe notes are not the act and deed of the makers and deliverers of them. Sanguine Georgia ſpeculators, who feel not the indignation and contempt which follows their enveloped frauds, may, under the pupilage of their lawyers, be taught to hope better things:—But let them remember, that great cauſes draw forth the energy of man; and that on cauſes of ſuch magnitude, courts will do right. Haſte, negligence, confinement to nice conſtructions, ſometimes thwart the courſe of juſtice, in ſmall diſputes; *but here no recovery can eventually be had, unleſs it ſhall appear eventually right, that men ſhall gain wealth by their own wrong.* I have here taken the

worſt iſſue which the cauſes can poſſibly be brought to; and if courts and juries will not, under the old eſtabliſhment, determine againſt the notes, yet when the ſellers knew they had no right in fee, and when it appears by the event, that by reaſon of their own fraud they had no right at all,—courts and juries will determine againſt the notes, whatever innovation it may produce. Probably a deciſion that theſe notes are not the act and deed of the makers of them, upon the ground that they were obtained by the groſſeſt deceit of the obligee, would form a new precedent: but being baſed on right, it could never prejudice right in any future deciſions. The danger of new precedents is, that the perverſeneſs or ignorance of man may apply them where they ought not to be applied; but this danger, however great and often inculcated, has never intimidated the independent judges in Weſtminſter-Hall from doing right, and making precedents where juſtice required them.

THESE remarks may apply to negotiable notes—to Miſſiſippi ſcript—to quit-claim deeds—and to all the variety of caſes under theſe Georgia contracts.—For if my premiſes are right reſpecting the original fraud, and the total loſs of the lands, or the preemptive right in the purchaſers,—the concluſion will extend to every note and contract, iſſuing from ſuch a corrupt original.

THE caſe in reſpect to the northern purchaſers, is preciſely as if the firſt grantees had forged the grant: For, a grant voidable becauſe of fraud and corruption, is no better nor worſe, than a forged one;—and the original actors in this fraud, and all their abettors, confederates and acceſſories, are every way as *baſely guilty* as if they had forged the act.—The guilt as reſpects the ſtate of Georgia is the ſame; and the impoſition on the purchaſers is certainly as great and pernicious. I call moſt of thoſe their confederates who

came from the midſt of them, with their pamphlets and miſrepreſentations:—and even they, who were themſelves deceived, and who deceived their neighbours, and are now preſſing for great profits to themſelves, deſerve an high rank in this brigade of impoſtors. I ſhould not aſſert thus poſitively on this ſubject, were I unable to bottom myſelf on the moſt ſubſtantial proofs;—and no individuals can be wounded by ſuch obloquies, but thoſe whoſe known conduct has fully juſtified them.

These remarks were not deſigned to *add* any odium to the fraudulent ſellers of Georgia land; but to lead the minds of the purchaſers, who have given their notes, to reflect *on the whole Georgia buſineſs as a ſyſtem of impoſture and ſwindling—on the reſcinding act as valid and concluſive—and on the power and diſpoſition of our courts to do ample juſtice on the ſubject.* If the hints ſuggeſted will lead to a new train of inveſtigation, they will anſwer the purpoſe for which they were written.

Note.—The compaſs which I have taken would not admit references to documents; and the preſent ſtage of the buſineſs rendered it improper to diſcuſs very minutely how the notes may be avoided:—But thoſe who hold deeds of Georgia land ought to be thoroughly convinced, that all the lands now claimed under the uſurped act, are not worth one cent;—and a pretence that the reſcinding act is void, is a miſerable deluſion.

Georgia Speculation Unveiled.

No. II.

FROM the premiſes in my firſt number, I open this with the following queſtions, and anſwers:—

1. DID the ſtate of Georgia ever own the right in fee to the lands deſcribed in the granting act?—Anſwer—No.

2. DID not the pretended claimants under the granting act publiſh and circulate a pamphlet, entitled,—"STATE OF FACTS,"—declaring the right of the ſtate to have been a right in fee, and the ſale of the ſtate to have been fair and conſtitutional?—Anſwer—They did.

3. WAS there any truth in theſe declarations?—Anſwer—No.

4. WAS it not generally repreſented to the purchaſers in theſe northern ſtates, verbally as well as by ſaid pamphlets, that the ſtate of Georgia would not, and could not, reſcind ſaid grant?—Anſwer—It was.

5. WAS there any truth in this repreſentation?—Anſwer—No.

6. Is not the grant reſcinded in ſuch manner, that the purchaſers are wholly foreclоſed of all poſſible benefit from their purchaſes, 'till the ſame ſovereign will and power which reſcinded the act, ſhall be united to reſtore it?—Anſwer—Yes.

7. Is there any probability that they will ever voluntarily do this?—Anſwer—Not the leaſt.

8. CAN they be compelled to do it by any court or power in the United States?—Anſwer—No.

9. Has not the ſtate of Georgia by their reſcinding act, put at great hazard the property, limbs and life of any man or body of men, who within the limits of ſaid ſtate ſhall in any way attempt to contravene ſaid act, or any clauſe of it?—Anſwer—Yes.

10. Have they not a ſovereign right to make ſuch laws as they judge proper for the well ordering of the ſtate?—Anſwer—They have.

11. If the declarations of the ſellers and of their pamphlets had been true, would not the purchaſes have been profitable to the purchaſers?—Anſwer—They probably would.

12. Falshood having been ſubſtituted in the place of truth, and the purchaſers having relied on the declarations of the ſellers, and thoſe declarations having proved uniformly deceitful—ſhall it be in the mouth of the ſellers to ſay to the purchaſers—"You ought to have looked out that we did not cheat you?"—Anſwer—No.

If any perſon is diſpoſed to give a different anſwer to any of theſe queſtions, the queſtion and anſwer ſhall be made the ſubject of a ſeparate diſcuſſion.

Several powerful deluſions have been improved to crown the firſt deluſion.

1ſt. That a grant is in its nature irreverſible.

2d. That provided the purchaſers will ever have any claim on the ſellers, they muſt firſt try the title which they have acquired; and if that fails, then they may come upon the ſellers.

3d. That theſe lands were purchaſed as lottery tickets are, and if they had turned out fortunately, it would have been well with the purchaſers: otherwiſe they muſt bear the loſs.

4th. That all the book-principles relating to real eſtate and to notes are in favor of the ſellers, and that conteſting the payment will be vain.

5th. That our courts will decide againſt the reſ-

rinding act, and then the lands may be ſold in Europe, for a dollar per acre.

6th. THAT the reſcinding act was made in the tumult of the people, and that there is good chance of its being repealed, and the grant reſtored.

7th. THAT if this reſcinding act is good, the ſtate of Connecticut may reſcind the act granting the reſerve, and Maſſachuſetts their act granting the Cheneſſee country.

BY ſuch chimeras, the advocates of the ſales are addreſſing themſelves to the hopes and fears, to the reaſon and to the weakneſs of the purchaſers; and are thus endeavoring to wheedle them out of further payments. But be not deceived;—for this irreverſible grant is actually reverſed, beyond the power of man; and all the compariſons between the ſovereign ſtate of Georgia, granting their lands, and the province of New-Hampſhire, then ſubject to Great-Britain, granting their lands, will be found vain. The diſtinction muſt be ſuſtained, that a dependant power has a power above them, to compel them to make good their grants and contracts; and that *an independent power can make, or unmake grants at will; becauſe no power can decide on the morality, equity, or policy of their meaſures.* If the granting act had been conſtitutional, fair and honorable, and the reſcinding act ever ſo unfair and immoral,—yet the conſequence to the purchaſers would be equally fatal. The power which has deprived them of the lands, is beyond their control; and all the advocates in favour of the ſellers, never have and never can ſuggeſt one practicable mode of even beginning to attack the validity of the reſcinding act. —That of deciding againſt it in theſe northern ſtates, has been already ſhewn to be futile. Some have been diſpoſed to maintain, that if the firſt act could be void at all, it muſt have been ſo in its own nature; and therefore the reſcinding act, notwithſtanding the firſt,

ſtands to be diſcuſſed on its own merits:—But this is only a re-production of the firſt deluſion;—for the granting act does not ſtand at all: it is burnt, and that power alone, which could declare definitively on the validity of it, has put it beyond the reach of diſcuſſion. The power itſelf is firſt to be diſcuſſed, and if you can once diſcuſs that out of exiſtence, you well know that the granting act will be good enough.—You have the parchments, 'tis true, large as dining-tables, certified by the ſecretary.—Vain ſhadows of a grant!—Dare you produce them in the ſtate of Georgia, to ſupport the title which you pretended to ſell us? Of little worth are they, if they cannot be produced on a trial, where if we obtain judgment, the execution will inveſt us with the title which you ſold us. A condition of wrong without redreſs, or of right without power, is very undeſirable to a landholder. Your own wrongs, your own frauds and violations of morality, have led up this act, againſt which you ſo vehemently cry—ſhame, wickedneſs, immorality!—Go cry them in the ſtreets of Georgia, plead them in their courts, ring them in the ears of their legiſlators,—there alone will they anſwer our purpoſe. If this is all a fair tranſaction, as you declared to us by words and pamphlets, make it appear ſo to the world, and let us have the benefit of your exertions.—While it appears unfair and wicked, we ſhall withhold from you payment—courts will ſuſtain us in withholding it:—and the certain event of the breaking of the bubble, will be your own bankruptcy, which is even now at the doors. I have not reſted entirely on the ground of power, thro' any idea that the granting act would be valid on its own merits. If any man judges that it was valid, and that the ſellers have conducted with a due portion of integrity, let him aſſert it; and I am willing to take the burden of proving the act bad, and unfairly obtained,—and the conduct of a number of the ſellers

to have been thoroughly abandoned.—In this number I include all thoſe who were themſelves deceived, and who in conſequence deceived their neighbours, and who are demanding any profits in the trade. This fact of demanding *profits* in ſuch a buſineſs, accompanied by a few acknowledged principles and deductions, will fix the character of ſuch beyond a vindication.

I HAVE thus anſwered the two firſt deluſions, and pray you to reflect, that the grant is really reverſed and revoked, and that you can never try your title to any purpoſe—that you have loſt all ſhadows of the land—and that if you have any defence to make, any money to ſave, any notes to avoid, or any redreſs to obtain,—now is your time; and the time to avail yourſelves will be ſhort.

NEXT, as to the ſimilitude between theſe ſales, and thoſe of lottery tickets, ſo often introduced, it may be juſt as reſpects a number of the Georgia bargains, ſo far as it can apply; but if a man propoſes to me to purchaſe of him a 100 tickets in the Savannah fire lottery, and ſhews me a ſcheme of the lottery, and aſſures me that it will be drawn in 60 days, and I buy them, and give him my note for the payment—and it afterwards appears that there was neither lottery, managers, nor any ſcheme publiſhed, or that there was a lottery without a prize, or one which could never be drawn,—am I to pay my note?—Certainly not—eſpecially not, if I can prove that this ſame man contrived with ſeveral others, to make out a ſcheme of a lottery, which could not in its nature anſwer any other purpoſes than thoſe of impoſture. But this compariſon with lottery tickets is not juſt: for in lottery tickets, every man buys with known hazard of loſs or gain. In theſe bargains every man bought with the greateſt certainty of gain, provided the pamphlets and declarations which he bought with his deeds, proved true.—He could not

calculate upon loſs, except from thoſe circumſtances of treachery and fraud on the part of the ſellers, which would wholly vacate the contract.

But 4th. Thoſe who have given notes, are to be frightened by the books!!—Unfortunately for the ſellers, the books give no comfort, no ſupport. Courts have been trammelled by books at the opening of this buſineſs.—Judge Chaſe was trammelled with books in the opening of the famous Connecticut ſtate cauſe; but after four days digeſtion, his mind was relieved, and he declared that the books did not apply, and that there was *no ſuch thing as ſuſtaining an analogy between protections granted by a ſovereign independent ſtate, and thoſe granted by the dependant courts of Weſtminſter-Hall.* By citing books and authorities, and covering the green cloth with folios, the advocates may perſuade their Georgia clients, that much good may come out of evil; but on thorough canvaſſing, it will be found, that (ſtrange to tell) the books can afford no light on a ſubject of which the compilers had no conception.

5th. Let purchaſers be guarded againſt being amuſed by the proſpect of *our* courts deciding againſt the reſcinding act.—If all the courts in the United States ſhould decide againſt it, and all the marſhalls and deputy-marſhalls, ſheriffs and deputy-ſheriffs, ſhould be employed to carry their judgments into effect,—the whole would ſtill be a miſerable farce and deluſion;—for they would not in the leaſt prejudice the reſcinding act, nor benefit our title, and the ſtate of Georgia would care nothing about them.

6th. As to the reſcinding act being made in the tumult of the people, and that there is good chance of its being repealed—there is not one word of truth, nor ſymptom of probability about it:—and this pretence is a mere continuation of the falſe and ſwindling meaſures, which have been practiſed on you.

And 7th. As to the hypothetical reaſoning, that if

Georgia could reſcind this act, then Connecticut and Maſſachuſetts can reſcind theirs—it ought to be otherwiſe ſtated, viz.—That Georgia has reſcinded her granting act, and if Connecticut and Maſſachuſetts ſhould reſcind theirs, they would do as Georgia has done;—and what would the claimants do in any ſuch caſe, where the Indian title is not extinguiſhed? In a ſituation wholly remedileſs, as to title or preemption, are you who have thought yourſelves purchaſers of Georgia lands; and your ſituation is brought on you by your confidence in thoſe, who ſold to you;—and this ſituation is aggravated by the perſecutions and law perplexities, with which theſe deceivers are hunting you. Your time is devoted, and your property ſubjected to the apparent rapacity of the Georgia ſellers; but they in reality, are now only the puppets of the farce—there is not one chance in a thouſand of their eventually gaining any thing; but ſtill the farce muſt be carried on, for the emolument of the craftsmen. Of great importance is it in this ſituation, that you poſſeſs yourſelves of facts—that you give way to no deluſions—and that you compoſe yourſelves under theſe complicated abuſes. If you get rid of your notes, yet the land deeded to you is not worth a thouſandth part of what you have paid—be that ſum ever ſo ſmall.

As many of the ideas, which have been introduced on this ſubject, tending to ſhew that the common law principles and practice cannot be applied to theſe caſes, may appear inadmiſſible,—I beg leave to enforce them by reference to the reaſonings and practice adopted in the South ſea ſcheme, in the year 1721.*

"When the bubble burſt, and the ſtock the ſubſcribers had purchaſed at 1000 per cent. fell to 150, and of courſe the loſs of every ſuch ſubſcriber was £.850 out of every £.1000 ſubſcribed—I ſay, when

* See Tindal's continuation of Rapin, under the words, South Sea Trade and Company.

" this happened, legal ſuits (of which very many were " commenced) for theſe debts, due to the company, " would have reduced moſt of the monied men in the " kingdom, to a ſtate of remedileſs bankruptcy, and " the company muſt have loſt moſt of their money " in the bargain. The public creditors had loſt moſt " of their public ſecurities, which they had ſubſcribed " into that fund,—and infinite other miſchiefs of a like " nature muſt have accrued of a kind moſt ruinous " and wrong, and of an amount ſo great as to affect " national intereſt, honor and credit, and of ſuch an " extreme and extraordinary nature, that no ordinary " rules of law could be applied in any ſuch manner as " to afford the leaſt remedy; but would rather in- " creaſe the evil, and give the wrong a kind of ſanc- " tion of the law.

" In this extreme caſe, the parliament found them- " ſelves under an abſolute neceſſity of aſſuming the " power of ſovereign equity, and as ſupreme chancel- " lors of the kingdom to ſuperſede the ordinary rules " of the law, control its force, ſoften its rigor, and a- " dopt ſuch equitable principles as would afford ſome " remedy of an evil, an injury, a wrong of ſuch mag- " nitude as brought the juſtice, credit and ſafety of " the nation into danger. On this principle, they ſuſ- " pended law-ſuits, annulled ſpecial bails, diſcharged " numberleſs debtors who owed for ſtock, on paying " 10 per cent. of their debts, compelled compenſa- " tions in favor of the ſufferers, forced dividends and " appropriations of the ſtock of the company, and e- " ven puniſhed many for miſmanagement, who ſeem- " ed to have conformed themſelves to the letter of the " law," &c. &c. &c.

Very ſtrong remonſtrances were made againſt the interference of the legiſlature, and that the matter ſhould be left to the courſe of law, i. e. to be decided according to the common rule of aſſignments of all

negotiable notes, bonds, &c.—but on a close inspection of the matter, it was soon clearly seen, that the variation of the exchange of these stocks (or their depreciation, as we call it) was so enormous and extreme, that any application of the ordinary rules of law and practice, to them, would produce the most ruinous injustice and wrongs,—and of course, every idea of that mode of settlement and adjustment was instantly given up. Their great principle was, that justice and right was the grand end of law, and paramount to any particular rules, or established practice,—and of course, ought to control them in all cases of so extreme and extraordinary a kind, as could not fall within the reason on which these rules were founded; but so circumstanced as that an application of these common rules, would unavoidably produce such injury and wrong, as was totally destructive of all that right, which was the essential principle and end of all laws.

As a further explanation of the interference of parliament, it was said that collections according to the common rule of assignments, "would bring remediless ruin on thousands of individuals, and at the same time heap immense fortunes on others, who had never deserved them."

VERY similar to this, in operation and management, was the Mississippi bubble, in France, two years before. In both these important and memorable precedents, of two of the most enlightened nations in the world, were recognized specifically the following principles—"That the ordinary rules of law would do infinite mischief and injustice, were not the rigor of them to be softened and corrected by chancery—that the powers of chancery ought always to control the common law, whenever in any case the application of the ordinary rules of law, will manifestly destroy right and justice, or work a wrong—that law is certainly perverted, and needs correction, whenever it destroys right or does

wrong." That the ſupreme power of every ſtate, is the ſupreme chancery of it, and muſt have ſovereign authority to repeal, to limit or control every rule of law, and may and ought to do it, whenever that rule operates by way of deſtruction or defalcation of right, or producing of wrong,—and that juſtice and ſecurity of right can never be perfect or even tolerable in any ſtate, without the exiſtence of this power and the prudent exerciſe of it.*

THESE are vital iſſues from the ſource of law, calculated to do good, wherever they flow:—theſe are principles, which put to flight all tecknical diſtinctions, and furniſh us with a truth highly important in theſe cauſes, viz.—that there are extraordinary caſes, where common law principles cannot and ought not to be applied, by reaſon of the manifeſt injuſtice, which would reſult from an application of them.

THESE Georgia cauſes furniſh the ſtrongeſt inſtance ſince 1721, for the application of theſe principles.—They do not preciſely reſemble either of the other bubbles: for in the South ſea ſcheme, the amazing riſe of the ſtock, originated in their contract with parliament, for taking in the national debt. Their ſtate of proſperity was overrated, and the funds roſe by mere enthuſiaſm, from 130 to 330 per cent.—and from the month of April to Auguſt, they roſe from the laſt ſum to 1000 per cent; but it was a reality they were dealing in:—and even after the bubble broke and parliament interfered, the ſtock was really worth 150 per cent. It will be well ſeen, that the Georgia bubble does not preciſely reſemble that of the South ſea:—for here was no reality at bottom, and here was great fraud in the means, as I conſtantly hold myſelf reſponſible to ſhew, whenever it ſhall be doubted.—But in one very important reſpect, there is a reſemblance.

* For theſe remarks on the South Sea bubble, ſee Peletiah Webſter's Political Eſſays, page 334.

The legiſlature of the ſtate of Georgia, like the ſovereign legiſlatures of England and France, ſeeing the wrong and oppreſſion, which would be cauſed by the collection of the notes, and combining this with the other inducements before ſtated—have, as they had a ſovereign right to do, deſtroyed the whole conſideration of the notes, and have thus let them and the holders of them to the ground. The ſovereign legiſlature of the union, might have ſuſpended the power of their own courts, from any cognizance of the cauſes: ſo the legiſlatures of the ſeveral ſtates might have ſuſpended the power of their courts; but this would have been only a partial remedy of the evil. The ſtate of Georgia, whoſe acts and laws are to be reſpected thro'-out the union, has in a moſt pointed and peremptory manner declared, that there is no conſideration for theſe notes,—and has ſhewn the neceſſity and propriety of this declaration more concluſively, than they were ſhewn by either of thoſe parliaments. Their exerciſe of ſovereignty is not novel, and the reaſons on which it is founded are as old as the world.—*This public act of the ſtate of Georgia, is the beſt and moſt concluſive teſtimony of a want of conſideration, which can be improved in a court of chancery: and thoſe courts could never have granted relief againſt notes for want of conſideration, on more ample grounds.*

In a very important reſpect alſo, the Georgia plaintiffs ſtand in the ſame rank with thoſe, who in the South ſea buſineſs were proſecuting for $\frac{850}{1000}$ of what coſt them nothing, and was good for nothing:—the remaining $\frac{150}{1000}$ and the price actually paid for the lands by the Georgia companies, placing them both on an equal footing,—both having a law of a ſovereign ſtate, barring them from an oppreſſive recovery—and both equally deſerving to feel the inconvenience reſulting to oppreſſors from the operation of principles of equity.—Neither can be in the rank of thoſe, who

hold notes for money lent, or labour done; but both are in the rank of thoſe, who are hunting for money, on principles deſtructive to the deſign of courts, and the exiſtence of ſociety. It is fortunate for the public, that there ſhould be ſuch a concurrence of public acts of ſovereign legiſlatures, on ſubjects ſo ſimilar—and that the parties preſſing for payment at the bar of our courts, ſhould meet an obſtacle ſo equally and juſtly fatal to their unfounded claims: for the deciſions in theſe caſes againſt the notes, will give to our courts occaſion to aſſert principles deſtructive to the fraudulent arts, which have expoſed many of our citizens to ſevere loſs of property.

HAPPILY our courts are not deſtitute of chancery powers, ſufficient to carry the equitable objects of the reſcinding act into full effect: and when the doctrines of chancery are introduced—when the original principles of right are contemplated—when this bubble is compared with other bubbles—when the parties and the cauſes are known, and the reſcinding act is duly plead,—if courts can heſitate about pronouncing againſt the notes, it will be only that one fiat of the national legiſlature, may put a perpetual end to the convulſions and diſtreſs cauſed by the Georgia, Virginia, Suſquehannah, Canada, and all other baſeleſs ſpeculations.

IT will be well ſeen, that I have not left theſe notes to depend on the contingence of ſuch a national meaſure. The defence of thoſe, who are ſued on their notes, ſtands moſt ſubſtantially on the chancery powers veſted in our courts:—and the means of calling thoſe powers into effectual exerciſe, have been juſt ſhewn to be abundant.

BUT merely to get rid of the payment of the notes is not the ſole object.—Large ſums of money have been paid, which in equity and good conſcience ought to be refunded.—In addition to theſe, great damages

have been ſuſtained, by reaſon of the falſhood and ſwindling practiſed in theſe ſales. The lands or deeds in the hands of the purchaſers, are not worth a farthing,—and would be worth the meereſt trifle, if the reſcinding act ſhould now be burnt, and the granting act reſtored:—for the granting act reſtored would not inveſt you with the fee of the lands, ſubject to the right of hunting and fiſhing, &c.—which fee you thought yourſelves to have bought: and the violent parties, which have been created in the confuſion of this buſineſs, would probably prevent your ever obtaining a right to extinguiſh the Indian title.—Indeed the commotions about the Georgia lands, have led up a ſerious claim of congreſs,—which otherwiſe would have been as dormant as their claim to the Cheneſſee country.—This claim, however originated, will not be eaſily relinquiſhed.

But if all obſtacles were removed, your right to hold a treaty, is merely a right to buy the land at the full value of it,—and this you are to do under the eye of ſworn commiſſioners and interpreters. This treaty is to be opened with great expenſe: and your agents are to meet not a few ignorant ſtraggling Indians, but the powerful, opulent and enlightened nations of the Creeks, Chactaws and Chickaſaws—headed by chiefs of great fame, information and influence.—The object of this treaty is, to buy from them the place of their birth, their conqueſts and their reſidence:—and you come to them under the faſcinating character of men, repreſenting a horde of impoſtors, who cheated the repreſentatives of the ſtate of Georgia, out of their uſurped and impoſing right of alone bidding on theſe lands: and you apply to them, after blood has been repeatedly and unſucceſsfully ſhed, to force them to retreat.—You apply to them for their lands—not as a place of refuge from perſecution—not as a ſoil, where you wiſh to labour, and to introduce agriculture, and

the arts of civilized life—not as a place, where you wiſh to embrace and treat them as a band of brothers;—but as a frontier, where you may erect forts, eſtabliſh garriſons, ſtretch the ſtrong arm of the union, and fill, with their ancient and implacable opreſſors and enemies.—With a council ſuch as theſe nations will preſent to you,—rum, whiſky and ruſty nails, will not be conſidered as concluſive arguments:—truth, ſincerity and a ſufficiency of property to enable them to remove where they may do better, will alone go down. Will you tell them, that you have already paid large ſums of money, to prevent others from bidding on their lands—and that therefore you cannot give the full value of them?—Will you deſire the commiſſioners to inform them, that you expect to make immenſe fortunes out of their lands, and that there is no way of your doing it, but by purchaſing them for far leſs than they are worth?—Shall your interpreters expound to them the whole hiſtory of this buſineſs?—Or will you ſmoke with them the calumet of peace, exchange your baubles for theirs, and call them friends and brothers? Will you tell them, that you came from a land flowing with milk and honey, abounding in corn and green paſtures, and overflowing in all the conveniences and luxuries of life—from a land, where every induſtrious man may gain wealth—and that for their ſakes you are come up thither? They know better than all this,—they have lately told us, at lake Erie, that they know the arts of the white men:—and the Georgia commiſſioners, but laſt year, with as much parade as could attend a treaty, and as plauſible talks as you can hold with them, got for anſwer, that they would not ſell.—And ſuppoſe you get the ſame anſwer, after all your expenſes, what is your preemption worth?—Or ſuppoſe they ſhouſd offer the lands to you, at ſuch price as you have repeatedly declared them worth, if free from incumbrance, what would your preemption be

worth? As reſpects the Indians, the lands are theirs in fee, with all the uſes belonging to them;—and they care not for preemptive rights—they can diſencumber them at pleaſure—and they feel and know themſelves entitled to as much in value, as the lands are worth to any purchaſer,—and there is no propriety in their giving you 9-10ths of the whole land for ſelling the remainder:—and yet a leſs commiſſion for doing this buſineſs, is hardly contemplated. Perhaps fraud or force may deprive theſe nations of their lands, within a few years; but I have no idea, that within a century they will voluntarily ſell them:—for they are not a miſerable handful, as the Georgia ſellers repreſented, conſtantly decreaſing in numbers, and rather inclining to retreat than to maintain their ground; but juſt the contrary.

SHALL it be ſaid, that the purchaſers knew or ought to have known all theſe things?—The beſt anſwer will be, that they did not know them, and had not the means of knowing them, and the whole repreſentation was as I have before ſtated—that there was only an uſufruct between the purchaſers and a complete poſſeſſion of the lands,—which uſufruct might be eaſily extinguiſhed, as there were immenſe tracts farther to the weſtward and northward, where the Indians would find better hunting and fiſhing than on theſe lands.—The commotions reſpecting the ſales have been ſuch, that a reſtoration of the granting act, if ſuch an event could be conceived, would be very far from reſtoring to the preſent claimants, what they ſuppoſed they had purchaſed:—ſo far from it, that the incumbrances then exiſting upon the claim, would in all probability be inſurmountable. I have not even taken into my calculation, the influence which the ſtate of Georgia, or any party among them, might uſe againſt you in caſe of a treaty,—nor the probable exiſtence of a great interference of titles, by fraudulent and multiplied deeds,

reſting merely on detached paper or parchment, without any record to ſupport them or diſcover their fallacy;—but we have a fair right to believe, that men who will take unprincipled means to get rich, will not be leſs abandoned in the means of extrication, when the gulph of bankruptcy is before them.

In view of the premiſes, I fully believe, that a reſtoration of the granting act, would not only wrong the people of Georgia,—but would prove a ſerious evil to the preſent claimants, and a dreadful misfortune to all who might be after purchaſers.—It would open a new ſcene of deluſive hopes to the world, and furniſh new daggers to aim at the vitals of morality, fair dealing and confidence between man and man. Long enough have friends ſtabbed friends, neighbours betrayed neighbours—and the wealth of centuries been waſted by the deluſions of a moment.—Truth, honeſty and commercial credit have ſuffered wounds deep enough: and all the friends of ſociety feel grateful to the legiſlature, which arreſted in its progreſs the deſtructive peſtilence. Formerly the enemies of man frequented the public roads—put piſtols to the breaſts of unſuſpecting travellers, and robbed them of the valuables they had about them; but the ſufferers could return to their houſes and lands, and by induſtry repair the loſs.—We live to ſee robbery in a more refined ſtile. Men who never added an iota to the wealth or morals of the world, and whoſe ſingle moment was never devoted to making one being wiſer or happier throughout the univerſe—riding in their chariots—plotting the ruin of born and unborn millions—aiming with feathers to cut throats, and on parchments to ſeal deſtruction,—theſe are the robbers of modern days.—They bring deſolation among our farmers—they ſpread diſtreſs in towns—they ſcorn the paltry plunder of pocket-books, and watches—they aim at houſes and lands—ſtrike at the foundation of many

generations,—and would deſtroy families, root and branch. Long enough have fraud, falſhood and ſwindling ſtalked our ſtreets:—often enough have our farmers left their fields and wrecked the induſtry of painful and honeſt years upon the mountains of Virginia:—often enough have our jails and dockets witneſſed the ruined hopes of the dupes of Newtown and Stockbridge ſpeculations.—Theſe laſt are not imputable to the Georgia ſellers,—unleſs by their ſuperior addreſs, and the wider ruin they have cauſed, they may claim the honor of ingurgitating theſe leſſer robberies.

I AM not diſtorting this ſubject; but am drawing likeneſſes of which the originals exiſt. The indignation of an incenſed public, is faſt gathering over you who have ſat for this picture.—The advocates of your impoſtures, begin to diſcover, that they have been led to abet meaſures which they abhor. The means of paying fees are nearly exhauſted—the funds to whch you look for help, will prove as deceitful as the eyes of thoſe, whom you have injured, will be dreadful to you, after your ruin ſhall be complete. Your characters, your hopes of wealth, your all, are tumbling into the pit, which you have digged for others:—and if the day of your total poverty, contempt and deſpair, can be haſtened by what is here written, I ſhall have paid to you, who deſerve this character, the only debt, which in equity and good conſcience I owe you.

New-Haven, Oct. 14, 1797. A. B.

[*The documents and authorities on which theſe pages are founded, will in due time be preſented to the public.*]

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